

Remarks

**Claim Rejections – 35 USC § 112**

Claims 1-31 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants traverse this rejection and respectfully request withdrawal of the same.

- i) the term “cycloalkyl” is regarded as indefinite by the Examiner since the type of ring is not specified. A standard definition, widely used by those skilled in art, appears on page 42 line 3 of the specification. It is well understood by any student of chemistry that a cycloalkyl is a saturated ring. It is well understood by those skilled in the art that a cycloalkyl may be monocyclic or bicyclic and that two monocyclic rings fuse to form a bicyclic ring. Furthermore, formula I would not allow for spiro cycloalkyls. Applicants and their attorneys have used this standard definition for many years without confusion and ask the Examiner to kindly reconsider the rejection in view of the clear definition provided in the specification.
- ii) The term “heterocyclyl” is regarded as indefinite by the Examiner since Applicants did not specify how many atoms make up the ring, which atoms are present and the type of ring (monocyclic, bicyclic, spiro, fused, bridged, saturated). Applicants provided a clear definition for heterocycle on page 42, line 30 of the application. Heterocyclyl refers to a “five-, six-, or seven-membered ring containing one, two, or three heteroatoms independently selected from the group consisting of nitrogen, oxygen, and sulfur.” The definition states that “five-membered ring has zero to two double bonds and the six- and seven-membered rings have zero to three double bonds,” that is they may be saturated or unsaturated. The definition allows for the ring to be monocyclic, tricyclic, and bicyclic rings. Compounds of formula I would not allow for a spiro heterocycles.

Applicants request that the Examiner reconsider the rejection in view of the clear, widely accepted, definition of heterocyclyl.

- iii) The Examiner has found the term “aryl” indefinite since the claims don’t recite the possible substitutions. Applicants maintain that in the chemical arts it is common for the definition of cyclic moieties to include the possible substitutions for the ring. Hence, for cycloalkyl, heterocyclyl, and aryl rings of compounds in the instant invention may be unsubstituted or substituted. Applicants request that the Examiner reconsider the rejection in view of this commonly used practice of listing substitution substituents in the definitions for cyclic moieties.

Claims 30 and 31 stand rejected under 35 USC112, first paragraph, as failing to comply with the enablement requirement. Applicants traverse this rejection and respectfully request withdrawal of the same. Applicants have canceled claims 30 and 31.

#### **Claim Rejections under 35 USC §102**

Claim 1 stands rejected under 35 USC 102(b) as being anticipated by Kuenzle et al. Applicants traverse this rejection and respectfully request withdrawal of the same. Applicants have amended claim 1 and the amendment renders the rejection moot.

Claim 1 stands rejected under 35 USC 102(b) as being anticipated by Schmutz et al. Applicants traverse this rejection and respectfully request withdrawal of the same. Applicants have amended claim 1 and the amendment renders the rejection moot.

#### **ACTION REQUESTED**

For all the forgoing reasons, Applicants submit that the pending claims are in condition for allowance. Entry of the proposed amendment and allowance of the application is respectfully requested. To that end, the Examiner is invited to contact the undersigned to schedule an Examiner Interview to discuss any matter.

Respectfully submitted,  
Hasvold, et al.

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